

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13619 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GHELABHAI VAGHAJIBHAI BHARWAD

Versus

CHAIRMAN

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Appearance:

MR PJ Patel for Petitioners

Mr. B.N.Rawal for the respondents.

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 16/04/99

ORAL JUDGEMENT

This petition has been filed for a direction or order restraining the respondents from in any manner disturbing or harassing the petitioners in their peaceful living on the land bearing block no. 245 of waste land of village Morad, Ta: Petlad, Dist:Kheda.

2. The petitioners are residing on the land bearing block no.245 of village Morad, Ta: Petlad, Dist:

Kheda since long. They also possess ration cards. Their names are also entered in the voters' list. They are members of Dudh Mandali (Milk society) of Petlad and they have settled the cattle farming and earning livelihood with great difficulty as they are residing in open plot with kutcha huts throughout the years. The Government of Gujarat has passed a rehabilitation scheme for development and rehabilitation of poor villages under Indira Avas Yojna which has been implemented in the area. They have prayed for allotment of pieces of lands alongwith houses with water connections under the scheme for development and benelovement of the poor villagers under different names and heads. The petitioners have applied for the pieces of lands alongwith facilities available two-three months back of the present petition and the respondents' office required that if any of the petitioners want to claim any relief under the scheme, they have to complete the application form and submit the same to the appropriate authority and they have submitted the application forms in the prescribed form to the appropriate authorities. According to the petitioners, they have no political influence and they have to approach this Court for the redressala of their grievances.

2. The respondent no.1 has filed an affidavit-in-reply in Misc. Civil Application no. 419 of 1998 wherein it is stated that that the petitioners are residing with their families in another village Mota Tradia. In summer season, due to scarcity of water, they came in the village in the year 1993-94. Though it is admitted that they are residing in the village encroaching upon Gauchar (pasture) land of the village on block no. 245, as soon as monsoon season starts, they go back to their original villages and they are not continuously residing in the village concerned. They have encroached upon block no.245 of the village and they are harassing the villagers by damaging standing crops of farmers/villagers. Hence, the villagers had to make complaints to the Panchayat on 28th November, 1994. It is further stated that in the general meeting of the Panchayat, it was resolved that the letter which was sent by the Panchayat to the Taluka Development Officer dated 9.11.94 regarding allotment of the plots of the petitioners, was discussed and the Panchayat passed a resolution not to allow the plots to the petitioners. The application made by the petitioners was rejected by Taluka Land Committee on 19.1.96. It is further stated that block no. 245 is a Gauchar land and there is a school building, thereon and students of the village are studying therein. The remaining land is being used by

the villagers as Gauchar land. In the village there are 1433 animals for which this gauchar land is insufficient.

3. The learned counsel for the petitioners submitted that it is a policy of the Government to rehabilitate the persons who are labourers and homeless in the villages, this policy has been given a statutory force by passing resolutions dated 3rd February, 1999 and 30th October, 1998 whereby homeless and labourers are required to be provided the land on which they are living and alongwith wada with the said land. The said formality was required to be completed on or before 31st March, 1999. However, that has been extended till 30th June, 1999 by a resolution dated 30th October, 1998. By the aforesaid resolution, the authorities were directed to give notice to the persons living and in that respect, the letter dated 22nd November, 1995 the authorities had taken a notice regarding existence of the petitioners and the authorities issued a letter dated 22.11.1995 requiring the petitioners to submit a certificate within 10 days to the effect that they were not holding any land or house in their own native villages. The petitioners have already submitted their applications in the prescribed forms alongwith requisite requirements by 28th February, 1995. The Chairman, Gujarat Gopalak Board also sent a letter to the petitioners that the matter is pending in the High Court being Special Civil Application No. 13619 of 1994 and the matter is still pending in the Court and hence plots cannot be granted. As soon as the Court proceedings are over, the office be informed immediately so that further proceedings can be carried out.

4. I have heard the learned counsel for both the parties and have gone through the relevant papers on record. It appears from the record that the petitioners are living in the village Morad and they have applied for the gauchar land for their block no. 245. They have already applied to allot the said land to them. Considering the facts and circumstances, this petition deserves to be allowed.

5. Accordingly, this petition is allowed. The respondent nos. 2 and 3 are directed to initiate proceedings for allotment of the land in question to the petitioners. The respondent nos. 2 and 3 are also further directed to consider and decide the claim of the petitioners in view of the Government Resolutions dated 30th October, 1998 and 3rd February, 1999 after giving a reasonable opportunity of hearing to the petitioners within three months. Till such a decision is taken, the

petitioners will not be evicted from the land bearing block no. 245 of village Morad, Ta: Kapadvanj, Dist: Kheda till the matter is decided by the authority concerned. Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

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